

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 10,403  
 )  
Appeal of )

## INTRODUCTION

The petitioner appeals the Department's decision to reduce her Food Stamps based on an increase in unearned income from student loans. The issue is how the petitioner's school related transportation costs were calculated.

## FINDINGS OF FACT

1. The petitioner is a recipient of public assistance and Food Stamps on behalf of herself and her three children.
2. From September 1990 to May 1991, the petitioner was also a half-time student at a college in Burlington to which she commuted on a regular basis from Newport. She graduated in May of 1991.
3. During the school year, the petitioner received a total of \$8,030.00 in "Title IV-funded" loans. This controversy involves \$4,000.00 of that amount in "S.L.S." loans, \$3,000.00 of which was received by February of 1991 and \$1,000.00 of which was added by March of 1991. On a form provided by the Department, the college reported in March of 1991 that \$700.00 of that amount was allocated to supplies, \$801.00 to personal expenses incidental to her school attendance and \$399.00 for transportation.
4. The Department in general relies upon the

allocations made by colleges to determine what expenses will be deducted from the loans received. In the petitioner's case, the Department (eventually) accepted the above figures as representing her necessary and deductible college expenses and notified her on March 12, 1991 that the balance of the loan prorated over the nine months from September 1990 to May 1991 would result in an increase of about \$30.00 per month in her unearned income and that her benefits would decrease in May 1991 to reflect that change.

5. The petitioner appealed that decision claiming that she had actual transportation costs (including gas, car repair bills, overnight lodging, and transportation to baby-sitting services) in excess of the allocations which she felt the Department should use instead of the college's figures.

6. In May of 1991, the college notified the Department that it had erred in calculating the transportation costs from the S.L.S. loan and that they should have totaled \$1,374.00. That figure, when added to previous transportation allocations already made for the year from other loans, amounted to \$2,587.00 for transportation alone.

7. In spite of this change in the allocation by the college, which more than covered the petitioner's claimed actual expenses, the Department and the petitioner apparently missed or failed to communicate on that issue and the matter went to hearing. At the hearing, the petitioner

presented evidence regarding her actual expenses, which she claimed were \$2,019.49.

8. The hearing officer, puzzled about the nature of the controversy, asked the parties to provide a further explanation from the college as to how expenses were calculated and what amounts were actually being allocated.

9. Several months passed while the petitioner and the Department obtained this information and prepared briefs. It was apparently only when the Department filed a responsive memorandum on January 27, 1992, that the petitioner realized that the full \$2,587.00 college allocation was being accepted by the Department as her transportation deduction.

10. In that same January 27, 1992 memorandum, the Department also requested that the Board find that the petitioner was overpaid for previous months as well due to allegedly filing her loan report in an untimely fashion.

11. While the petitioner has not withdrawn her appeal, she has essentially agreed that the Department's use of the full figure on transportation provided by the college is acceptable to her. She asks, however, that the Department's request to establish a retroactive overpayment be denied.

ORDER

The petitioner's appeal is dismissed as moot. The Department's request to establish an overpayment at this time is denied.

REASONS

The issue in this case initially was whether the Department can allow a Food Stamp recipient to verify her own school attendance costs under 20 C.F.R. § 1087uu or whether it must accept those costs calculated and allocated by the institution of higher education which she attends. That issue was very much alive when the petitioner claimed actual transportation expenses in excess of the college's allocation. However, once the college verified that it should have allocated a figure some \$500.00 in excess of those expenses she could actually prove, there was no longer an actual controversy about the result (although the petitioner may still question the method.) As such, it must be found that the petitioner has no further grievance and the case is now moot. See Fair Hearing No. 7473. It was unlikely as well that this matter will arise again as the petitioner has since graduated from college.

The Department's request to establish an overpayment for months prior to April cannot be upheld by the Board because the Department has yet to notify the petitioner of any action in this regard. The petitioner's appeal was based solely on the Department's decision to reduce her Food Stamps prospectively for April and May. Before any other action can be taken with regard to months before those dates, the petitioner has a right to notice and an opportunity to be heard on that specific matter. F.S.M. § 273.13.

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